

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Serial No.: 10/595,046

Examiner: Scott A. Smith

Filing Date: January 13, 2006

Group Art Unit: 3721

Inventor: Berger *et al.*

Attorney Docket No. 72.104

Assignee: Wacker Construction Equipment AG

Invention: *Working Tool with Damped Handle*

**REQUEST FOR RECONSIDERATION OF RESTRICTION REQUIREMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated September 21, 2007, in which a restriction was required under 35 U.S.C. §§ 121 and 372, Applicant provisionally elects Group I, including claims 1-15, *with* traverse.

The Examiner contends that the claims categorized in Group I comprise an invention that is distinct from the invention claimed in the Group II claims, finding that the two groups do not relate to a single general inventive concept under PCT Rule 13.1 because they lack the same or corresponding technical features. Restriction in this instance is governed by 37 CFR §§1.475 and 1.499. The standard for restriction is set forth under 37 CFR §1.475(a), which states that the requirement of unity of invention is fulfilled “when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features.”

In the present case, there *is* a technical relationship among the inventions of Group I and Group II involving one or more of the same special technical features, since both groups of

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claims relate to an air spring situated between two portions of a working tool for the purpose of vibration isolation in the tool. Restriction is improper because there is unity of the inventions as defined in PCT Rule 13.2. Furthermore, since the inventions claimed in each group would not require separate classification or different fields of search, no burden is placed on the Examiner by examination of the Group I and Group II claims together. Withdrawal of the restriction requirement and examination on the merits of each of claims 1 – 36 is therefore respectfully requested.

In the event that expedited review of the claims on the merits can be achieved by conducting a telephone discussion of the subject matter herein, the Examiner is encouraged to telephone Applicant's representative at the number provided below.

No fees are believed to be due with this communication, but the Director is hereby authorized to charge payment of any additional fees associated with this or any other communication, or credit any overpayment, to Deposit Account No. 50-1170.

Respectfully submitted,



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Dated: October 22, 2007

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